



## Senate

General Assembly

**File No. 390**

February Session, 2002

Substitute Senate Bill No. 608

*Senate, April 9, 2002*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING THE DNA DATA BANK.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-102g of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

3 (a) Any person who (1) is convicted of a criminal offense against a  
4 victim who is a minor, a nonviolent sexual offense or a sexually violent  
5 offense, as those terms are defined in section 54-250, as amended, or of  
6 a felony found by the sentencing court to have been committed for a  
7 sexual purpose as provided in section 54-254, and is sentenced to the  
8 custody of the Commissioner of Correction, or (2) is convicted of a  
9 violation of section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a,  
10 53a-56, 53a-56a, 53a-59, 53a-59a, 53a-60, 53a-60a, 53a-60b, as amended,  
11 53a-60c, 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-101, 53a-102, as amended,  
12 53a-102a, 53a-134 or 53a-135 on or after the effective date of this act  
13 and is sentenced to the custody of the Commissioner of Correction,  
14 shall, at any time prior to release from custody, have a [sample of such

15 person's] blood or other biological sample withdrawn or taken for  
16 DNA (deoxyribonucleic acid) analysis to determine identification  
17 characteristics specific to the person.

18 (b) Any person who is convicted of a criminal offense against a  
19 victim who is a minor, a nonviolent sexual offense or a sexually violent  
20 offense, as those terms are defined in section 54-250, as amended, or of  
21 a felony found by the sentencing court to have been committed for a  
22 sexual purpose, as provided in section 54-254, who is not sentenced to  
23 a term of confinement shall, as a condition of such sentence, have a  
24 [sample of such person's] blood or other biological sample withdrawn  
25 or taken for DNA (deoxyribonucleic acid) analysis to determine  
26 identification characteristics specific to the person.

27 (c) Any person who is found not guilty by reason of mental disease  
28 or defect pursuant to section 53a-13 of a criminal offense against a  
29 victim who is a minor, a nonviolent sexual offense or a sexually violent  
30 offense, as those terms are defined in section 54-250, as amended, or of  
31 a felony found by the sentencing court to have been committed for a  
32 sexual purpose, as provided in section 54-254, shall, at any time prior  
33 to discharge from custody in accordance with subsection (e) of section  
34 17a-582, section 17a-588 or subsection (g) of section 17a-593, have a  
35 [sample of such person's] blood or other biological sample withdrawn  
36 or taken for DNA (deoxyribonucleic acid) analysis to determine  
37 identification characteristics specific to the person.

38 (d) The analysis shall be performed by the Division of Scientific  
39 Services within the Department of Public Safety. The identification  
40 characteristics of the profile resulting from the DNA analysis shall be  
41 stored and maintained by the division in a DNA data bank and shall  
42 be made available only as provided in section 54-102j, as amended by  
43 this act.

44 Sec. 2. Section 54-102h of the general statutes is repealed and the  
45 following is substituted in lieu thereof (*Effective October 1, 2002*):

46 (a) Each blood or other biological sample required pursuant to

47 section 54-102g, as amended by this act, from persons who are to be  
48 incarcerated shall be withdrawn or taken at the receiving unit or at  
49 such other place as is designated by the Department of Correction. The  
50 required samples from persons who are not sentenced to a term of  
51 confinement shall be withdrawn or taken at a time and place specified  
52 by the sentencing court. Only a person licensed to practice medicine  
53 and surgery in this state, a qualified laboratory technician, a registered  
54 nurse or a phlebotomist shall withdraw or take any sample to be  
55 submitted to analysis. No civil liability shall attach to any person  
56 authorized to withdraw [blood] or take a blood or other biological  
57 sample as provided in this section as a result of the act of withdrawing  
58 [blood] or taking such sample from any person submitting thereto, if  
59 the blood or other biological sample was withdrawn or taken  
60 according to recognized medical procedures, provided no person shall  
61 be relieved from liability for negligence in the withdrawing or taking  
62 of any [blood] such sample.

63 (b) Chemically clean sterile disposable needles and vacuum draw  
64 tubes shall be used for all blood samples. The tube or container for a  
65 blood or other biological sample shall be sealed and labeled with the  
66 subject's name, Social Security number, date of birth, race and gender,  
67 the name of the person collecting the sample, and the date and place of  
68 collection. The tubes or containers shall be secured to prevent  
69 tampering with the contents.

70 (c) The steps set forth in this section relating to the [taking]  
71 collection, handling, identification and disposition of blood or other  
72 biological samples are procedural and not substantive. Substantial  
73 compliance therewith shall be deemed to be sufficient. The samples  
74 shall be transported to the Division of Scientific Services within the  
75 Department of Public Safety not more than fifteen days following  
76 withdrawal or taking and shall be analyzed and stored in the DNA  
77 data bank in accordance with sections 54-102i and 54-102j, as amended  
78 by this act.

79 Sec. 3. Section 54-102i of the general statutes is repealed and the

80 following is substituted in lieu thereof (*Effective October 1, 2002*):

81 (a) Whether or not the results of an analysis are to be included in the  
82 data bank, the Division of Scientific Services within the Department of  
83 Public Safety shall conduct the DNA analysis in accordance with  
84 procedures adopted by the division to determine identification  
85 characteristics specific to the individual whose blood or other  
86 biological sample is being analyzed. Such procedures shall conform to  
87 nationally recognized and accepted standards for DNA analysis. The  
88 Commissioner of Public Safety or the commissioner's designee shall  
89 complete and maintain on file a form indicating the name of the person  
90 whose sample is to be analyzed, the date and by whom the [blood]  
91 sample was received and examined, and a statement that the seal on  
92 the tube or container had not been broken or otherwise tampered with.  
93 The remainder of a [blood] sample submitted for analysis and  
94 inclusion in the data bank pursuant to section 54-102g, as amended by  
95 this act, may be divided, labeled as provided for the original sample,  
96 and securely stored by the division in accordance with specific  
97 procedures set forth in regulations adopted by the Department of  
98 Public Safety in accordance with the provisions of chapter 54 to ensure  
99 the integrity and confidentiality of the samples. All or part of the  
100 remainder of that sample may be used only (1) to create a statistical  
101 data base provided no identifying information on the individual  
102 whose sample is being analyzed is included, or (2) for retesting by the  
103 division to validate or update the original analysis.

104 (b) The division shall initiate a DNA testing process not later than  
105 forty-five days after the receipt of a blood or other biological sample  
106 that has been submitted for analysis. A report of the results of a DNA  
107 analysis conducted by the division as authorized, including the profile  
108 and identifying information, shall be made and maintained at the  
109 division. A certificate and the results of the analysis shall be admissible  
110 in any court as evidence of the facts therein stated. Except as  
111 specifically provided in this section and section 54-102j, as amended by  
112 this act, the results of the analysis shall be securely stored and shall  
113 remain confidential.

114 Sec. 4. Section 54-102j of the general statutes is repealed and the  
115 following is substituted in lieu thereof (*Effective October 1, 2002*):

116 (a) It shall be the duty of the Division of Scientific Services within  
117 the Department of Public Safety to receive blood and other biological  
118 samples and to analyze, classify and file the results of DNA  
119 identification characteristics profiles of blood and other biological  
120 samples submitted pursuant to section 54-102g, as amended by this  
121 act, and to make such information available as provided in this section.  
122 The results of an analysis and comparison of the identification  
123 characteristics from two or more blood or other biological samples  
124 shall be made available directly to federal, state and local law  
125 enforcement officers upon request made in furtherance of an official  
126 investigation of any criminal offense and to the person or persons  
127 whose sample or samples were analyzed. A request may be made by  
128 personal contact, mail or electronic means. The name of the person  
129 making the request and the law enforcement purpose for which the  
130 information is requested shall be maintained on file with the division.

131 (b) Upon the request of any person identified and charged with an  
132 offense as the result of a search of information in the data bank, a copy  
133 of the request for a search shall be furnished to such person so  
134 identified and charged. Only when a sample or DNA profile supplied  
135 by the person making the request satisfactorily matches a profile in the  
136 data bank shall the existence of data in the data bank be confirmed or  
137 identifying information from the data bank be disseminated.

138 (c) The Department of Public Safety shall adopt regulations in  
139 accordance with the provisions of chapter 54 governing (1) the  
140 methods of obtaining information from the data bank in accordance  
141 with this section, and (2) procedures for verification of the identity and  
142 authority of the person making the request. The department shall  
143 specify the positions in that agency which require regular access to the  
144 data bank and samples submitted as a necessary function of the job.

145 (d) The Division of Scientific Services shall create a separate  
146 statistical data base comprised of DNA profiles of blood or other

147 biological samples of persons whose identity is unknown. Nothing in  
148 this section or section 54-102k shall prohibit the Division of Scientific  
149 Services from sharing or otherwise disseminating the information in  
150 the statistical data base with law enforcement or criminal justice  
151 agencies within or without the state for law enforcement purposes  
152 only.

153 (e) The Division of Scientific Services may charge a reasonable fee to  
154 search and provide a comparative analysis of DNA profiles in the data  
155 bank to any authorized law enforcement agency outside of the state.

156 Sec. 5. (NEW) (*Effective October 1, 2002*) (a) There is established a  
157 DNA Data Bank Oversight Panel composed of the Chief State's  
158 Attorney, the Attorney General, the Commissioner of Public Safety  
159 and the Commissioner of Correction, or their designees. The Chief  
160 State's Attorney shall serve as chairperson of the panel and shall  
161 coordinate the agencies responsible for the implementation and  
162 maintenance of the DNA data bank established pursuant to section 54-  
163 102j of the general statutes, as amended by this act.

164 (b) The panel shall have the following responsibilities: (1) To devise,  
165 review and update as necessary the protocol for the collection,  
166 analysis, storage and handling of blood and other biological samples  
167 obtained for DNA analysis pursuant to section 54-102g of the general  
168 statutes, as amended by this act, (2) to consider legal issues related to  
169 obtaining authorized samples and maintaining the data bank, and (3)  
170 to take such other action as necessary to assure the integrity of the data  
171 bank including the destruction of inappropriately obtained samples  
172 and the purging of all records and identifiable information pertaining  
173 to the persons from whom such inappropriately obtained samples  
174 were collected.

175 (c) The panel shall meet on a quarterly basis and shall maintain  
176 records of its meetings. Such records shall be retained by the  
177 chairperson.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
GF - Cost	Public Safety, Dept.	-	300,000	115,000
GF - Cost	Correction, Dept.	-	67,500	5,500
Total - Cost	Departments of Public Safety and Correction	-	367,500	120,500

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

This bill results in additional costs to the state estimated at \$367,500 in FY 03 and at \$120,500 in subsequent fiscal years.

It requires DNA (deoxyribonucleic acid) samples to be obtained from all persons convicted of a violent felony and allows other biological samples besides blood to be taken for DNA analysis. Violent felonies include murder and various degrees of manslaughter, assault, kidnapping, unlawful restraint, burglary, robbery, rioting and stalking. Currently, blood samples are used for DNA analysis and are taken by the Department of Correction (DOC) and then sent to the Department of Public Safety (DPS) Division of Scientific Services for analysis and entry into the data bank. This costs a total of about \$55.50 per person, \$5.50 for DOC to take the sample and send it to DPS, and \$50 for DPS to analyze the sample and enter the results into the data bank.

There are about 4,700 Connecticut inmates incarcerated for these violent felonies, *see table below*. In addition, at least 1,000 persons are



convicted of these violent offenses each year. The cost for the actual tests and processing would be \$302,500 in FY 02 and \$55,500 in subsequent years. In addition, due to the significant increase in the number of samples requiring processing, DPS would also require two additional positions, a Criminalist (\$40,000) and a Lab Technician (\$25,000), for total personnel costs of \$65,000 in FY 02.<sup>1</sup>

### **INMATES INCARCERATED FOR VIOLENT OFFENSES**

<b>OFFENSE</b>	<b>NUMBER</b>
Murder	1,450
Manslaughter	405
Assault	548
Kidnapping	158
Unlawful Restraint	50
Burglary	112
Arson	83
Robbery	1,433
Assault on Police	178
Rioting	3
Stalking	9
<b>TOTAL</b>	<b>4,678</b>

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<sup>1</sup> Fringe benefit costs are not included within individual agency budgets. They are appropriated through Miscellaneous Appropriations to the Comptroller. An additional \$23,000 would have to be provided for these positions to cover these costs.

**OLR Bill Analysis**

sSB 608

**AN ACT CONCERNING THE DNA DATA BANK****SUMMARY:**

This bill:

1. mandates DNA testing of perpetrators of 23 serious felonies and inclusion of their genetic profiles in the Department of Public Safety's (DPS) forensic laboratory data bank;
2. permits biological samples other than blood to be collected and used for DNA tests, and extends current law's civil immunity provisions to people collecting these samples;
3. requires the laboratory to provide its test results to anyone whose sample it analyzed and compared with other samples at the request of a law enforcement official and to keep a record of the law enforcement purpose for the request; and
4. establishes the DNA Data Bank Oversight Panel comprised of various public officials or their designees.

EFFECTIVE DATE: October 1, 2002

**COVERED FELONIES**

Currently, people convicted, or acquitted because of insanity, of crimes requiring sex offender registration (specified crimes against minors, non-violent sexual offenses, crimes committed for a sexual purpose, and sexually violent offenses) must submit blood samples to the department for analysis and inclusion in its DNA database. The bill adds people convicted of the following crimes on and after October 1, 2002, who are sentenced to Department of Correction (DOC) custody:

1. murder (all forms),
2. first- and second-degree manslaughter (except manslaughter with a motor vehicle),
3. first- and second-degree assault (except assault on a DOC employee and assault with a motor vehicle),
4. first- and second-degree kidnapping (all forms),
5. first- and second-degree burglary (all forms), and
6. first- and second-degree robbery.

## **DNA DATA BANK OVERSIGHT PANEL**

The oversight panel consists of the chief state's attorney, who is chairperson, the attorney general, and the public safety and correction commissioners or their designees. The panel must:

1. devise, review, and update, as necessary, the protocol for collecting, analyzing, storing, and handling blood or other biological samples;
2. consider legal issues related to obtaining samples and maintaining the data bank; and
3. take other actions to assure the integrity of the data bank, including destroying inappropriately obtained samples and purging records and identifiable information about people inappropriately subjected to DNA testing.

The bill also charges the chief state's attorney with coordinating the agencies responsible for implementing and maintaining the data bank (presumably, DOC and DPS). The panel must meet quarterly and keep records of its meetings, which the chairperson must retain.

## **BACKGROUND**

### ***Sample Collection***

By law, licensed physicians, qualified lab technicians, registered nurses, or phlebotomists must take the blood samples at the DOC receiving unit or some other place designated by the commissioner. They must place the samples in securely sealed and labeled containers and deliver them to the forensic laboratory for analysis and storage.

### ***DNA Data Bank***

The laboratory must begin testing samples within 45 days of receiving them. When its analysis is complete, it records identifying characteristics of the person's DNA profile in its data bank. It also keeps secure, confidential records on how it handled the sample and a report of its analysis. It may keep a portion of the sample after testing, but may use it only to create a statistical database with no individually identifiable information or for retesting to confirm the original results.

By law, it must make analysis results and data bank matches available

to federal, state, and local law enforcement officers who provide a sample and ask for a data bank search. The laboratory must verify their identity and confirm that the request is made as part of an official criminal investigation. It cannot disclose the existence of data in its bank or identifying information, unless the requestor's sample matches a profile in the bank. Anyone identified and charged with an offense as a result of a data bank search must get a copy of the law enforcement agency's search request if he asks for it.

DNA data bank profiles can be expunged when a person's case is subsequently dismissed or his conviction reversed. For this to happen, he must make a written request and provide a certified copy of the court order reversing or dismissing the case. The laboratory must then purge its records and destroy the sample.

### ***Penalties***

It is a class D felony, punishable by one to five years imprisonment, a fine of up to \$5,000, or both, for someone without legal authority to obtain, or try to obtain, a DNA sample from the laboratory for the purpose of having a DNA analysis performed.

It is a class A misdemeanor, punishable by up to one year's imprisonment, a fine of up to \$2,000, or both, to knowingly disseminate, receive, or use DNA data bank information for a purpose not authorized by law.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40      Nay 0